



U.S. Department of Justice

United States Attorney
Southern District of New York

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New York, New York 10007

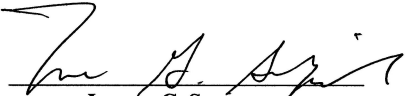
July 8, 2021

Hon. Lorna G. Schofield
United States District Judge
United States District Court
40 Foley Square
New York, New York 10007

The parties are directed to specify which docket numbers should remain under seal by October 12, 2021.

So Ordered.

Date: October 6, 2021
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

Re: *John Doe v. Decker et al.*, No. 21 Civ. 5257 (LGS)

Dear Judge Schofield:

This Office represents the government in the above-referenced immigration habeas matter. The government's response to the petition is due today, July 8, 2021. *See* ECF No. 5. I write respectfully to request permission to file under seal two declarations regarding the petitioner's medical diagnoses and treatment, which also attach his medical records from the detention facility. Consistent with Section I(D)(iii) of this Court's Individual Rules, these documents will be filed under seal on ECF and electronically related to this letter motion.

The government respectfully submits that sealing is appropriate notwithstanding the presumption of access discussed by the Second Circuit in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006), in light of the privacy interests of individuals in their medical records. *See, e.g., Barnwell v. FCI Danbury*, No. 3:10-CV-01301 (DJS), 2011 WL 5330215, at *5 (D. Conn. Nov. 3, 2011) (noting a rebuttable presumption of openness of court filings, but granting motion to seal in light of federal law's treatment of such records as confidential pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Pub. L. 104-191 (1996)). Courts in this District have permitted the sealing of medical records, even if specific details relating to the individual's health appear on the record. *See, e.g., United States v. Needham*, 460 F. Supp. 3d 323, 324 n.1 (S.D.N.Y. 2020); *United States v. Estevez*, No. 18 Cr. 669 (JPO), 2020 WL 1911207, at *1 (S.D.N.Y. Apr. 20, 2020); *United States v. Ebberts*, 432 F. Supp. 3d 421, 423 n.1 (S.D.N.Y. 2020) (noting defendant's waiver through "extensively citing to his medical records and medical history in his own motion, in correspondence with the Court, and in open Court during oral argument on his motion").

Petitioner's counsel consents to this request.

In addition, the government will file redacted versions of its Return, Memorandum of Law in Opposition to the Petition for a Writ of Habeas Corpus, and Declaration of Deportation Officer Naquan Bacchus, as well as the exhibits thereto, as required by the June 9, 2021 Order entered by Judge Broderick, *see ABC v. DEF*, 21-mc-463, ECF No. 3, and also will file unredacted versions of those documents under seal.

I thank the Court for its consideration.

Respectfully submitted,

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United States Attorney for the
Southern District of New York

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cc: Counsel of Record (via ECF)

*Appendix identifying all parties and attorneys of record
who should have access to the sealed documents*

1. Rebecca Friedman, counsel for the government
2. Alexandra Lynn Lampert, counsel for petitioner
3. Amelia Barriga Marritz, counsel for the petitioner